

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:20-cv-00306-MR**

WALTER TIMOTHY GAUSE,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
ERIK A. HOOKS, Secretary of)	
Department of Public Safety,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Petitioner’s “Request for a Certificate of Appealability” [Doc. 18].

On November 12, 2020, the Court entered an Order dismissing without prejudice the Petitioner’s § 2254 Petition for Writ of Habeas Corpus as an unauthorized, successive habeas petition. [Doc. 12]. In that Order, the Court declined to issue a certificate of appealability. [Id.].

The Petitioner filed a Notice of Appeal of the Court’s Order. [Doc. 17]. Along with his Notice of Appeal, the Petitioner filed the present motion seeking a certificate of appealability. [Doc. 18].


For the reasons stated in the Court’s prior Order [Doc. 12], the Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2);

Miller-El v. Cockrell, 537 U.S. 322, 338 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

IT IS, THEREFORE, ORDERED that the Petitioner's "Request for a Certificate of Appealability" [Doc. 18] is **DENIED**. Pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, this Court declines to issue a certificate of appealability.

IT IS SO ORDERED.

Signed: December 1, 2020



Martin Reidinger
Chief United States District Judge

